

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TAMEEKA GREEN,

Plaintiff,

ANSWER

-against-

Docket No. 08-CV-3337 (NRB)

JURY TRIAL DEMANDED

CITY OF NEW YORK, et al.,

Defendants.

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Defendant City of New York, by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its Answer to the Complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph “1” of the Complaint, except admits that plaintiff purports to bring the action and proceed as stated therein.
2. Denies the allegations set forth in paragraph “2” of the Complaint, except admits that plaintiff purports to invoke the jurisdiction of this Court as stated therein.
3. Defendants state that the averments set forth in paragraph “3” of the Complaint constitute averments to which no response is required.
4. Denies the allegations set forth in paragraph “4” of the Complaint, except admits that plaintiff purports to base venue as stated therein.
5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “5” of the Complaint.
6. Denies the allegations set forth in paragraph “6” of the Complaint, except admits that defendant City of New York is a municipal entity created and authorized under the laws

of the State of New York and that the City of New York maintains a police department.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the Complaint.

8. Denies the allegations set forth in paragraph “8 ” of the Complaint.

9. Denies the allegations set forth in paragraph “9” of the Complaint.

10. Denies the allegations set forth in paragraph “10” of the Complaint.

11. Denies the allegations set forth in paragraph “11 ” of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the Complaint, except admit that the arrest was assigned arrest number Q07642037.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the Complaint,

14. In response to the allegations set forth in paragraph “14” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

15. Denies the allegations set forth in paragraph “15” of the Complaint.

16. Denies the allegations set forth in paragraph “15” of the Complaint.¹

17. In response to the allegations set forth in paragraph “16” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

18. Denies the allegations set forth in paragraph “17” of the Complaint.

19. Denies the allegations set forth in paragraph “18” of the Complaint.

20. Denies the allegations set forth in paragraph “19” of the Complaint

¹ Plaintiff incorrectly uses Paragraph # 15 twice.

21. In response to the allegations set forth in paragraph “20” of the Complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

22. Denies the allegations set forth in paragraph “21” of the Complaint.

23. Denies the allegations set forth in paragraph “22” of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

24. At all times relevant to the acts alleged in the Complaint, the duties and functions of defendant’s officials entailed the reasonable exercise of proper and lawful discretion. Therefore, the City of New York is entitled to governmental immunity from liability.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

25. Any injury alleged to have been sustained by plaintiffs resulted from plaintiff’s own culpable or negligent conduct or that of a third party and was not the proximate result of any act of the defendant.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

26. There was probable cause for plaintiff’s arrest and detention.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

27. Punitive damages cannot be assessed as against the City of New York.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

28. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

29. At all times relevant to the acts alleged in the complaint, defendant acted reasonably in the proper and lawful exercise of its discretion.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

30. Plaintiff provoked any incident.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

31. Defendant has not violated any rights, privileges or immunities secured to the plaintiffs by the Constitution or laws of the United States or the State of New York, nor have the defendants violated any act of Congress providing for the protection of civil rights.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

32. Plaintiff has failed to comply with New York General Municipal Law §50.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

33. Plaintiff's claims are barred, in part, by the applicable Statute of Limitations.

WHEREFORE, defendant City of New York requests judgment dismissing the Complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
August 21, 2008

MICHAEL A. CARDOZO
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By: /s/
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